

SUF

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

08 JAN 23 AM 11:28

UNITED STATES OF AMERICA,

Plaintiff,

v.

Gilberto PEREZ-Espinoza,

Defendant

Magistrate Docket No.

08 MJ 0201

COMPLAINT FOR VIOLATION OF:

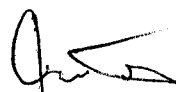
DEFENDANT

Title 8, U.S.C., Section 1326
Attempted Entry After
Deportation

The undersigned complainant, being duly sworn, states:

On or about **January 22, 2008** within the Southern District of California, defendant, **Gilberto PEREZ-Espinoza**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, attempted to enter the United States with the purpose, i.e. conscious desire, to enter the United States at or near the San Ysidro, California Port of Entry, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

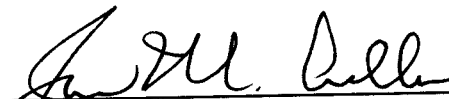
And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT

James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 23rd of JANUARY 2008



Jan M. Adler

UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Gilberto PEREZ-Espinoza

PROBABLE CAUSE STATEMENT

On January 22, 2008, Border Patrol Agent G. Acosta responded to a radio call by Remote Surveillance System Operator of two subjects heading northbound from the primary fence in an area known as "Echo 2". This area is approximately one mile east of the San Ysidro, California Port of Entry and 50 yards north of the United States/Mexico International Boundary. Agent Acosta approached the subjects and identified himself as a Border Patrol Agent. One of the individuals ran back south into Mexico, the other one, later identified as the defendant Gilberto PEREZ-Espinoza, and was holding a ladder when he was apprehended by Agent Acosta. Agent Acosta conducted an immigration inspection on the defendant. The defendant admitted to being a citizen and national of Mexico illegally present in the United States and not in possession of the proper immigration documents that would allow him to be or remain in the United States legally. The defendant was arrested at approximately 12:31 A.M. and was transported to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **March 8, 2006** through **San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda Rights, which he stated he understood and was willing to answer questions without having an attorney present. The defendant admitted to being a citizen and national of Mexico who was ordered deported from the United States by an Immigration Judge and has not asked for permission to enter the United States after being removed. The defendant stated that when he was arrested he was heading to National City, California. The defendant stated he entered on January 22, 2008.